IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8883 OF 2007

Oriental Bank of Commerce Ltd ...Petitioners
Versus
Smt.Kanchan Ramakant Kubal
and Ors. ....Respondents

Mr.P.K.Dhakephalkar Adv. for the petitioners.

R.A.Jahgirdar i/by.S.M.Mogre Adv. for the respondents.

CORAM: S.C.DHARMADHIKARI, J.

18th December, 2007.

P.C. :

1, After this matter was argued for some time, on instructions from the officers of the petitioner bank who are present in court, Mr. Dhakephalkar states that the petitioner Bank does not intend to challenge the decree for possession in favour of the respondents, but, prays for time to vacate. These are instructions received at the regional as well as central level. He prays for a year and half to vacate on account of the

bank being functional and provision for lockers of customers being made therein. He submits that the branch was functional for quite some time. His request is opposed by Mr.Jahgirdar, learned Senior Counsel and he submits that this court may grant at the most three months time.

2. After this aspect was gone into, in my view, interest of justice would be subserved if time to vacate is granted till 31.8.2008 provided the bank complies with the following directions :-

(a) An undertaking to be filed by the competent officer within a period of four weeks from today in this court stating that the bank is in possession of the premises.

(b) that it will not part with possession or create any third party rights in respect thereof.

(c) that it will vacate and hand over peaceful possession on 31.8.2008.

3. Insofar as the compensation is concerned, Mr.Jahgirdar states that atleast from the date of the decree i.e. 8.12.2005, the petitioner must pay the market rate whereas, Mr.Dhakephalkar states that he has no instructions.

4. Considering that the decree is for possession and enquiry into mesne profits is going on, so also, the premises admeasure nearly 1700 sq.ft interest of justice would be subserved, if the petitioner bank is permitted to pay Rs.50,000/- per month till it vacates the premises.

5. Needless to state, that if no Undertaking is filed, the decree becomes executable forthwith.

6. Mr.Dhakephalkar states that the petitioner bank will withdraw all pending proceedings before the lower court. In any event, the decree for possession not being challenged, these proceedings do not survive and are disposed off. No costs.

sd/-

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